

AMENDED IN SENATE AUGUST 19, 2016  
AMENDED IN SENATE AUGUST 15, 2016  
AMENDED IN SENATE JUNE 28, 2016  
AMENDED IN SENATE JUNE 15, 2016  
AMENDED IN ASSEMBLY MAY 5, 2016  
AMENDED IN ASSEMBLY APRIL 13, 2016  
AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1708**

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**Introduced by Assembly Member Gonzalez**  
(Coauthor: Senator Anderson)

January 25, 2016

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An act to amend Section 647 of the Penal Code, relating to disorderly conduct.

### LEGISLATIVE COUNSEL’S DIGEST

AB 1708, as amended, Gonzalez. Disorderly conduct: prostitution.

Existing law provides that a person who solicits or agrees to engage in or engages in any act of prostitution is guilty of disorderly conduct, a misdemeanor, punishable by imprisonment in the county jail for no more than 6 months or by a fine not exceeding \$1,000, or by both that fine and imprisonment. Existing law also imposes increased minimum terms of imprisonment for a violation of that provision if a person has previously been convicted of soliciting or agreeing to engage in or engaging in any act of prostitution. Existing law defines “prostitution”

to include any lewd act between persons for money or other consideration. Existing law additionally makes prostitution involving soliciting a minor punishable by imprisonment of not less than 2 days and not more than one year and a fine not exceeding \$10,000. Existing law allows a court to, when the interests of justice are best served, reduce or eliminate the mandatory 2 days in the county jail.

This bill would recast these provisions to distinguish between the different individuals who are guilty of disorderly conduct by soliciting, agreeing to engage in, or engaging in, any act of prostitution based on whether the person is soliciting or agreeing to receive compensation, money, or anything of value for an act of prostitution, as specified, or the person is soliciting or agreeing to provide compensation, money, or anything of value for an act of prostitution with a minor or with an adult, as specified. The bill would provide that committing disorderly conduct by soliciting or agreeing to provide compensation is punishable by a fine of not less than \$250 but not exceeding \$1,000, and imprisonment in a county jail for not less than 72 hours, or if probation is granted, not less than 48 hours, as specified, and not exceeding 6 months. The bill would provide that committing disorderly conduct by soliciting or agreeing to provide compensation when the defendant knew or should have known that the person solicited was a minor or the person was posing as a minor, is punishable by a fine of not less than \$1,000 but not exceeding \$10,000, and imprisonment in a county jail for not less than 72 hours, or if probation is granted, not less than 48 hours, as specified, and not exceeding one year. By imposing those mandatory terms of incarceration, this bill would impose a state-mandated local program.

*This bill would incorporate additional changes to Section 647 of the Penal Code, proposed by SB 1129 and SB 1322, that would become operative only if this bill and one or more of those other bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

The bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 647 of the Penal Code is amended to  
2 read:

3     647. Except as provided in subdivision (l), a person who  
4 commits any of the following acts is guilty of disorderly conduct,  
5 a misdemeanor:

6     (a) An individual who solicits anyone to engage in or who  
7 engages in lewd or dissolute conduct in any public place or in any  
8 place open to the public or exposed to public view.

9     (b) (1) An individual who solicits, or who agrees to engage in,  
10 or who engages in, any act of prostitution with the intent to receive  
11 compensation, money, or anything of value from the other person.  
12 An individual agrees to engage in an act of prostitution when, with  
13 specific intent to so engage, he or she manifests an acceptance of  
14 an offer or solicitation by another person to so engage, regardless  
15 of whether the offer or solicitation was made by a person who also  
16 possessed the specific intent to engage in an act of prostitution.

17     (2) An individual who solicits, or who agrees to engage in, or  
18 who engages in, any act of prostitution with another person who  
19 is 18 years of age or older in exchange for the individual providing  
20 compensation, money, or anything of value to the other person.  
21 An individual agrees to engage in an act of prostitution when, with  
22 specific intent to so engage, he or she manifests an acceptance of  
23 an offer or solicitation by another person who is 18 years of age  
24 or older to so engage, regardless of whether the offer or solicitation  
25 was made by a person who also possessed the specific intent to  
26 engage in an act of prostitution.

27     (3) An individual who solicits, or who agrees to engage in, or  
28 who engages in, any act of prostitution with another person who  
29 is a minor in exchange for the individual providing compensation,  
30 money, or anything of value to the minor. An individual agrees to  
31 engage in an act of prostitution when, with specific intent to so  
32 engage, he or she manifests an acceptance of an offer or solicitation  
33 by someone who is a minor to so engage, regardless of whether  
34 the offer or solicitation was made by a minor who also possessed  
35 the specific intent to engage in an act of prostitution.

36     (4) A manifestation of acceptance of an offer or solicitation to  
37 engage in an act of prostitution shall not constitute a violation of  
38 this subdivision unless some act, in addition to the manifestation

1 of acceptance, is done within this state in furtherance of the  
2 commission of the act of prostitution by the person manifesting  
3 an acceptance of an offer or solicitation to engage in that act. As  
4 used in this subdivision, “prostitution” includes any lewd act  
5 between persons for money or other consideration.

6 (5) Except as provided in paragraph (6) and subdivision (k), a  
7 violation of paragraph (2) or (3) is punishable by imprisonment in  
8 a county jail for not less than 72 hours and not more than six  
9 months and by a fine of not less than two hundred fifty dollars  
10 (\$250) but not exceeding one thousand dollars (\$1,000). Upon a  
11 violation of paragraph (2) or (3), a person is not eligible for release  
12 upon completion of sentence, on probation, on parole, on work  
13 furlough or work release, or on any other basis until he or she has  
14 served a period of not less than 24 continuous hours in a county  
15 jail. In all cases in which probation is granted, the court shall  
16 require as a condition of probation that the person be confined in  
17 a county jail for at least 24 hours. The court shall order that a  
18 person punished under this paragraph, who is to be punished by  
19 imprisonment in the county jail, be imprisoned on days other than  
20 days of regular employment of the person, as determined by the  
21 court. If the court determines that 24 hours of continuous  
22 imprisonment would interfere with the person’s work schedule,  
23 the court shall allow the person to serve the imprisonment  
24 whenever the person is normally scheduled for time off from work.  
25 The court may make this determination based upon a representation  
26 from the defendant’s attorney or upon an affidavit or testimony  
27 from the defendant.

28 (6) If a defendant violates paragraph (3) and knew or should  
29 have known that the person who was solicited was a minor at the  
30 time of the offense, or if a defendant violates paragraph (2) and  
31 the person who was solicited was a person posing as a minor and  
32 the defendant had specific intent to solicit a minor, the violation  
33 is punishable by imprisonment in a county jail for not less than 72  
34 hours and not more than one year and by a fine not less than one  
35 thousand dollars (\$1,000) but not exceeding ten thousand dollars  
36 (\$10,000). Upon a violation of this paragraph, a person is not  
37 eligible for release upon completion of sentence, on probation, on  
38 parole, on work furlough or work release, or on any other basis  
39 until he or she has served a period of not less than 48 continuous  
40 hours in a county jail. In all cases in which probation is granted,

1 the court shall require as a condition of probation that the person  
2 be confined in a county jail for at least 48 hours. The court shall  
3 order that a person punished under this paragraph, who is to be  
4 punished by imprisonment in the county jail, be imprisoned on  
5 days other than days of regular employment of the person, as  
6 determined by the court. If the court determines that 48 hours of  
7 continuous imprisonment would interfere with the person's work  
8 schedule, the court shall allow the person to serve the imprisonment  
9 whenever the person is normally scheduled for time off from work.  
10 The court may make this determination based upon a representation  
11 from the defendant's attorney or upon an affidavit or testimony  
12 from the defendant.

13 (7) This subdivision does not prohibit prosecution under any  
14 other law.

15 (c) Who accosts other persons in any public place or in any  
16 place open to the public for the purpose of begging or soliciting  
17 alms.

18 (d) Who loiters in or about any toilet open to the public for the  
19 purpose of engaging in or soliciting any lewd or lascivious or any  
20 unlawful act.

21 (e) Who lodges in any building, structure, vehicle, or place,  
22 whether public or private, without the permission of the owner or  
23 person entitled to the possession or in control of it.

24 (f) Who is found in any public place under the influence of  
25 intoxicating liquor, any drug, controlled substance, toluene, or any  
26 combination of any intoxicating liquor, drug, controlled substance,  
27 or toluene, in a condition that he or she is unable to exercise care  
28 for his or her own safety or the safety of others, or by reason of  
29 his or her being under the influence of intoxicating liquor, any  
30 drug, controlled substance, toluene, or any combination of any  
31 intoxicating liquor, drug, or toluene, interferes with or obstructs  
32 or prevents the free use of any street, sidewalk, or other public  
33 way.

34 (g) When a person has violated subdivision (f), a peace officer,  
35 if he or she is reasonably able to do so, shall place the person, or  
36 cause him or her to be placed, in civil protective custody. The  
37 person shall be taken to a facility, designated pursuant to Section  
38 5170 of the Welfare and Institutions Code, for the 72-hour  
39 treatment and evaluation of inebriates. A peace officer may place  
40 a person in civil protective custody with that kind and degree of

1 force which would be lawful were he or she effecting an arrest for  
2 a misdemeanor without a warrant. A person who has been placed  
3 in civil protective custody shall not thereafter be subject to any  
4 criminal prosecution or juvenile court proceeding based on the  
5 facts giving rise to this placement. This subdivision shall not apply  
6 to the following persons:

7 (1) Any person who is under the influence of any drug, or under  
8 the combined influence of intoxicating liquor and any drug.

9 (2) Any person who a peace officer has probable cause to believe  
10 has committed any felony, or who has committed any misdemeanor  
11 in addition to subdivision (f).

12 (3) Any person who a peace officer in good faith believes will  
13 attempt escape or will be unreasonably difficult for medical  
14 personnel to control.

15 (h) Who loiters, prowls, or wanders upon the private property  
16 of another, at any time, without visible or lawful business with the  
17 owner or occupant. As used in this subdivision, “loiter” means to  
18 delay or linger without a lawful purpose for being on the property  
19 and for the purpose of committing a crime as opportunity may be  
20 discovered.

21 (i) Who, while loitering, prowling, or wandering upon the private  
22 property of another, at any time, peeks in the door or window of  
23 any inhabited building or structure, without visible or lawful  
24 business with the owner or occupant.

25 (j) (1) Any person who looks through a hole or opening, into,  
26 or otherwise views, by means of any instrumentality, including,  
27 but not limited to, a periscope, telescope, binoculars, camera,  
28 motion picture camera, camcorder, or mobile phone, the interior  
29 of a bedroom, bathroom, changing room, fitting room, dressing  
30 room, or tanning booth, or the interior of any other area in which  
31 the occupant has a reasonable expectation of privacy, with the  
32 intent to invade the privacy of a person or persons inside. This  
33 subdivision shall not apply to those areas of a private business  
34 used to count currency or other negotiable instruments.

35 (2) Any person who uses a concealed camcorder, motion picture  
36 camera, or photographic camera of any type, to secretly videotape,  
37 film, photograph, or record by electronic means, another,  
38 identifiable person under or through the clothing being worn by  
39 that other person, for the purpose of viewing the body of, or the  
40 undergarments worn by, that other person, without the consent or

1 knowledge of that other person, with the intent to arouse, appeal  
2 to, or gratify the lust, passions, or sexual desires of that person and  
3 invade the privacy of that other person, under circumstances in  
4 which the other person has a reasonable expectation of privacy.

5 (3) (A) Any person who uses a concealed camcorder, motion  
6 picture camera, or photographic camera of any type, to secretly  
7 videotape, film, photograph, or record by electronic means, another,  
8 identifiable person who may be in a state of full or partial undress,  
9 for the purpose of viewing the body of, or the undergarments worn  
10 by, that other person, without the consent or knowledge of that  
11 other person, in the interior of a bedroom, bathroom, changing  
12 room, fitting room, dressing room, or tanning booth, or the interior  
13 of any other area in which that other person has a reasonable  
14 expectation of privacy, with the intent to invade the privacy of that  
15 other person.

16 (B) Neither of the following is a defense to the crime specified  
17 in this paragraph:

18 (i) The defendant was a cohabitant, landlord, tenant, cotenant,  
19 employer, employee, or business partner or associate of the victim,  
20 or an agent of any of these.

21 (ii) The victim was not in a state of full or partial undress.

22 (4) (A) Any person who intentionally distributes the image of  
23 the intimate body part or parts of another identifiable person, or  
24 an image of the person depicted engaged in an act of sexual  
25 intercourse, sodomy, oral copulation, sexual penetration, or an  
26 image of masturbation by the person depicted or in which the  
27 person depicted participates, under circumstances in which the  
28 persons agree or understand that the image shall remain private,  
29 the person distributing the image knows or should know that  
30 distribution of the image will cause serious emotional distress, and  
31 the person depicted suffers that distress.

32 (B) A person intentionally distributes an image described in  
33 subparagraph (A) when he or she personally distributes the image,  
34 or arranges, specifically requests, or intentionally causes another  
35 person to distribute that image.

36 (C) As used in this paragraph, “intimate body part” means any  
37 portion of the genitals, the anus and in the case of a female, also  
38 includes any portion of the breasts below the top of the areola, that  
39 is either uncovered or clearly visible through clothing.

1 (D) It shall not be a violation of this paragraph to distribute an  
2 image described in subparagraph (A) if any of the following  
3 applies:

4 (i) The distribution is made in the course of reporting an  
5 unlawful activity.

6 (ii) The distribution is made in compliance with a subpoena or  
7 other court order for use in a legal proceeding.

8 (iii) The distribution is made in the course of a lawful public  
9 proceeding.

10 (5) This subdivision shall not preclude punishment under any  
11 section of law providing for greater punishment.

12 (k) In any accusatory pleading charging a violation of  
13 subdivision (b), if the defendant has been once previously convicted  
14 of a violation of that subdivision, the previous conviction shall be  
15 charged in the accusatory pleading. If the previous conviction is  
16 found to be true by the jury, upon a jury trial, or by the court, upon  
17 a court trial, or is admitted by the defendant, the defendant shall  
18 be imprisoned in a county jail for a period of not less than 45 days  
19 and is not eligible for release upon completion of sentence, on  
20 probation, on parole, on work furlough or work release, or on any  
21 other basis until he or she has served a period of not less than 45  
22 days in a county jail. In all cases in which probation is granted,  
23 the court shall require as a condition thereof that the person be  
24 confined in a county jail for at least 45 days. The court shall not  
25 absolve a person who violates this subdivision from the obligation  
26 of spending at least 45 days in confinement in a county jail.

27 In any accusatory pleading charging a violation of subdivision  
28 (b), if the defendant has been previously convicted two or more  
29 times of a violation of that subdivision, each of these previous  
30 convictions shall be charged in the accusatory pleading. If two or  
31 more of these previous convictions are found to be true by the jury,  
32 upon a jury trial, or by the court, upon a court trial, or are admitted  
33 by the defendant, the defendant shall be imprisoned in a county  
34 jail for a period of not less than 90 days and is not eligible for  
35 release upon completion of sentence, on probation, on parole, on  
36 work furlough or work release, or on any other basis until he or  
37 she has served a period of not less than 90 days in a county jail.  
38 In all cases in which probation is granted, the court shall require  
39 as a condition thereof that the person be confined in a county jail  
40 for at least 90 days. The court shall not have the power to absolve



a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

*SEC. 1.1. Section 647 of the Penal Code is amended to read:*

647. Except as provided in subdivision (l), ~~every~~ a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) ~~Who~~ *An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.*

~~(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an~~

*(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so engage, regardless*

1 *of whether the offer or solicitation was made by a person who also*  
2 *possessed the specific intent to engage in an act of prostitution.*

3 *(2) An individual who solicits, or who agrees to engage in, or*  
4 *who engages in, any act of prostitution with another person who*  
5 *is 18 years of age or older in exchange for the individual providing*  
6 *compensation, money, or anything of value to the other person.*  
7 *An individual agrees to engage in an act of prostitution when, with*  
8 *specific intent to so engage, he or she manifests an acceptance of*  
9 *an offer or solicitation by another person who is 18 years of age*  
10 *or older to so engage, regardless of whether the offer or solicitation*  
11 *was made by a person who also possessed the specific intent to*  
12 *engage in an act of prostitution.*

13 *(3) An individual who solicits, or who agrees to engage in, or*  
14 *who engages in, any act of prostitution with another person who*  
15 *is a minor in exchange for the individual providing compensation,*  
16 *money, or anything of value to the minor. An individual agrees to*  
17 *engage in an act of prostitution when, with specific intent to so*  
18 *engage, he or she manifests an acceptance of an offer or*  
19 *solicitation by someone who is a minor to so engage, regardless*  
20 *of whether the offer or solicitation was made by a minor who also*  
21 *possessed the specific intent to engage in an act of prostitution.*

22 *(4) A manifestation of acceptance of an offer or solicitation to*  
23 *so engage, regardless of whether the offer or solicitation was made*  
24 *by a person who also possessed the specific intent to engage in*  
25 *prostitution. No agreement to engage in an act of prostitution shall*  
26 *does not constitute a violation of this subdivision unless some act,*  
27 *in addition to the agreement, manifestation of acceptance, is done*  
28 *within this state in furtherance of the commission of an the act of*  
29 *prostitution by the person agreeing manifesting an acceptance of*  
30 *an offer or solicitation to engage in that act. As used in this*  
31 *subdivision, "prostitution" includes any lewd act between persons*  
32 *for money or other consideration.*

33 *(5) Except as provided in paragraph (6), a violation of*  
34 *paragraph (2) or (3) is punishable by imprisonment in a county*  
35 *jail for not less than 72 hours and not more than six months and*  
36 *by a fine of not less than two hundred fifty dollars (\$250) but not*  
37 *exceeding one thousand dollars (\$1,000). Upon a violation of*  
38 *paragraph (2) or (3), a person is not eligible for release upon*  
39 *completion of sentence, on probation, on parole, on work furlough*  
40 *or work release, or on any other basis until he or she has served*

1 a period of not less than 24 continuous hours in a county jail. In  
2 all cases in which probation is granted, the court shall require as  
3 a condition of probation that the person be confined in a county  
4 jail for at least 24 hours. The court shall order that a person  
5 punished under this paragraph, who is to be punished by  
6 imprisonment in the county jail, be imprisoned on days other than  
7 days of regular employment of the person, as determined by the  
8 court. If the court determines that 24 hours of continuous  
9 imprisonment would interfere with the person's work schedule,  
10 the court shall allow the person to serve the imprisonment  
11 whenever the person is normally scheduled for time off from work.  
12 The court may make this determination based upon a  
13 representation from the defendant's attorney or upon an affidavit  
14 or testimony from the defendant.

15 (6) If a defendant violates paragraph (3) and knew or should  
16 have known that the person who was solicited was a minor at the  
17 time of the offense, or if a defendant violates paragraph (2) and  
18 the person who was solicited was a person posing as a minor and  
19 the defendant had specific intent to solicit a minor, the violation  
20 is punishable by imprisonment in a county jail for not less than  
21 72 hours and not more than one year and by a fine not less than  
22 one thousand dollars (\$1,000) but not exceeding ten thousand  
23 dollars (\$10,000). Upon a violation of this paragraph, a person  
24 is not eligible for release upon completion of sentence, on  
25 probation, on parole, on work furlough or work release, or on any  
26 other basis until he or she has served a period of not less than 48  
27 continuous hours in a county jail. In all cases in which probation  
28 is granted, the court shall require as a condition of probation that  
29 the person be confined in a county jail for at least 48 hours. The  
30 court shall order that a person punished under this paragraph,  
31 who is to be punished by imprisonment in the county jail, be  
32 imprisoned on days other than days of regular employment of the  
33 person, as determined by the court. If the court determines that  
34 48 hours of continuous imprisonment would interfere with the  
35 person's work schedule, the court shall allow the person to serve  
36 the imprisonment whenever the person is normally scheduled for  
37 time off from work. The court may make this determination based  
38 upon a representation from the defendant's attorney or upon an  
39 affidavit or testimony from the defendant.

1 (7) *This subdivision does not prohibit prosecution under any*  
2 *other law.*

3 (c) Who accosts other persons in any public place or in any  
4 place open to the public for the purpose of begging or soliciting  
5 alms.

6 (d) Who loiters in or about any toilet open to the public for the  
7 purpose of engaging in or soliciting any lewd or lascivious or any  
8 unlawful act.

9 (e) Who lodges in any building, structure, vehicle, or place,  
10 whether public or private, without the permission of the owner or  
11 person entitled to the possession or in control of it.

12 (f) Who is found in any public place under the influence of  
13 intoxicating liquor, any drug, controlled substance, toluene, or any  
14 combination of any intoxicating liquor, drug, controlled substance,  
15 or toluene, in a condition that he or she is unable to exercise care  
16 for his or her own safety or the safety of others, or by reason of  
17 his or her being under the influence of intoxicating liquor, any  
18 drug, controlled substance, toluene, or any combination of any  
19 intoxicating liquor, drug, or toluene, interferes with or obstructs  
20 or prevents the free use of any street, sidewalk, or other public  
21 way.

22 (g) ~~When~~ *If* a person has violated subdivision (f), a peace officer,  
23 if he or she is reasonably able to do so, shall place the person, or  
24 cause him or her to be placed, in civil protective custody. The  
25 person shall be taken to a facility, designated pursuant to Section  
26 5170 of the Welfare and Institutions Code, for the 72-hour  
27 treatment and evaluation of inebriates. A peace officer may place  
28 a person in civil protective custody with that kind and degree of  
29 force ~~which~~ *that* would be lawful were he or she effecting an arrest  
30 for a misdemeanor without a warrant. A person who has been  
31 placed in civil protective custody shall not thereafter be subject to  
32 any criminal prosecution or juvenile court proceeding based on  
33 the facts giving rise to this placement. This subdivision ~~shall~~ *does*  
34 not apply to the following persons:

35 (1) ~~Any~~ A person who is under the influence of any drug, or  
36 under the combined influence of intoxicating liquor and any drug.

37 (2) ~~Any~~ A person who a peace officer has probable cause to  
38 believe has committed any felony, or who has committed any  
39 misdemeanor in addition to subdivision (f).

1 (3) ~~Any~~A person who a peace officer in good faith believes  
2 will attempt escape or will be unreasonably difficult for medical  
3 personnel to control.

4 (h) Who loiters, prowls, or wanders upon the private property  
5 of another, at any time, without visible or lawful business with the  
6 owner or occupant. As used in this subdivision, “loiter” means to  
7 delay or linger without a lawful purpose for being on the property  
8 and for the purpose of committing a crime as opportunity may be  
9 discovered.

10 (i) Who, while loitering, prowling, or wandering upon the private  
11 property of another, at any time, peeks in the door or window of  
12 any inhabited building or structure, without visible or lawful  
13 business with the owner or occupant.

14 (j) (1) ~~Any~~A person who looks through a hole or opening, into,  
15 or otherwise views, by means of any instrumentality, including,  
16 but not limited to, a periscope, telescope, binoculars, camera,  
17 motion picture camera, camcorder, or mobile phone, the interior  
18 of a bedroom, bathroom, changing room, fitting room, dressing  
19 room, or tanning booth, or the interior of any other area in which  
20 the occupant has a reasonable expectation of privacy, with the  
21 intent to invade the privacy of a person or persons inside. This  
22 subdivision ~~shall~~ *does* not apply to those areas of a private business  
23 used to count currency or other negotiable instruments.

24 (2) ~~Any~~A person who uses a concealed camcorder, motion  
25 picture camera, or photographic camera of any type, to secretly  
26 videotape, film, photograph, or record by electronic means, another,  
27 identifiable person under or through the clothing being worn by  
28 that other person, for the purpose of viewing the body of, or the  
29 undergarments worn by, that other person, without the consent or  
30 knowledge of that other person, with the intent to arouse, appeal  
31 to, or gratify the lust, passions, or sexual desires of that person and  
32 invade the privacy of that other person, under circumstances in  
33 which the other person has a reasonable expectation of privacy.

34 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion  
35 picture camera, or photographic camera of any type, to secretly  
36 videotape, film, photograph, or record by electronic means, another,  
37 identifiable person who may be in a state of full or partial undress,  
38 for the purpose of viewing the body of, or the undergarments worn  
39 by, that other person, without the consent or knowledge of that  
40 other person, in the interior of a bedroom, bathroom, changing

1 room, fitting room, dressing room, or tanning booth, or the interior  
2 of any other area in which that other person has a reasonable  
3 expectation of privacy, with the intent to invade the privacy of that  
4 other person.

5 (B) Neither of the following is a defense to the crime specified  
6 in this paragraph:

7 (i) The defendant was a cohabitant, landlord, tenant, cotenant,  
8 employer, employee, or business partner or associate of the victim,  
9 or an agent of any of these.

10 (ii) The victim was not in a state of full or partial undress.

11 (4) (A) ~~Any~~ A person who intentionally distributes the image  
12 of the intimate body part or parts of another identifiable person,  
13 or an image of the person depicted engaged in an act of sexual  
14 intercourse, sodomy, oral copulation, sexual penetration, or an  
15 image of masturbation by the person depicted or in which the  
16 person depicted participates, under circumstances in which the  
17 persons agree or understand that the image shall remain private,  
18 the person distributing the image knows or should know that  
19 distribution of the image will cause serious emotional distress, and  
20 the person depicted suffers that distress.

21 (B) A person intentionally distributes an image described in  
22 subparagraph (A) when he or she personally distributes the image,  
23 or arranges, specifically requests, or intentionally causes another  
24 person to distribute that image.

25 (C) As used in this paragraph, “intimate body part” means any  
26 portion of the genitals, the anus and in the case of a female, also  
27 includes any portion of the breasts below the top of the areola, that  
28 is either uncovered or clearly visible through clothing.

29 (D) It shall not be a violation of this paragraph to distribute an  
30 image described in subparagraph (A) if any of the following  
31 applies:

32 (i) The distribution is made in the course of reporting an  
33 unlawful activity.

34 (ii) The distribution is made in compliance with a subpoena or  
35 other court order for use in a legal proceeding.

36 (iii) The distribution is made in the course of a lawful public  
37 proceeding.

38 (5) This subdivision ~~shall~~ *does* not preclude punishment under  
39 any section of law providing for greater punishment.

1 ~~(k) In any accusatory pleading charging a violation of~~  
2 ~~subdivision (b), if the defendant has been once previously convicted~~  
3 ~~of a violation of that subdivision, the previous conviction shall be~~  
4 ~~charged in the accusatory pleading. If the previous conviction is~~  
5 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~  
6 ~~a court trial, or is admitted by the defendant, the defendant shall~~  
7 ~~be imprisoned in a county jail for a period of not less than 45 days~~  
8 ~~and shall not be eligible for release upon completion of sentence,~~  
9 ~~on probation, on parole, on work furlough or work release, or on~~  
10 ~~any other basis until he or she has served a period of not less than~~  
11 ~~45 days in a county jail. In all cases in which probation is granted,~~  
12 ~~the court shall require as a condition thereof that the person be~~  
13 ~~confined in a county jail for at least 45 days. In no event does the~~  
14 ~~court have the power to absolve a person who violates this~~  
15 ~~subdivision from the obligation of spending at least 45 days in~~  
16 ~~confinement in a county jail.~~

17 ~~In any accusatory pleading charging a violation of subdivision~~  
18 ~~(b), if the defendant has been previously convicted two or more~~  
19 ~~times of a violation of that subdivision, each of these previous~~  
20 ~~convictions shall be charged in the accusatory pleading. If two or~~  
21 ~~more of these previous convictions are found to be true by the jury,~~  
22 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~  
23 ~~by the defendant, the defendant shall be imprisoned in a county~~  
24 ~~jail for a period of not less than 90 days and shall not be eligible~~  
25 ~~for release upon completion of sentence, on probation, on parole,~~  
26 ~~on work furlough or work release, or on any other basis until he~~  
27 ~~or she has served a period of not less than 90 days in a county jail.~~  
28 ~~In all cases in which probation is granted, the court shall require~~  
29 ~~as a condition thereof that the person be confined in a county jail~~  
30 ~~for at least 90 days. In no event does the court have the power to~~  
31 ~~absolve a person who violates this subdivision from the obligation~~  
32 ~~of spending at least 90 days in confinement in a county jail.~~

33 ~~In~~

34 *(k) In addition to any punishment prescribed by this section, a*  
35 *court may suspend, for not more than 30 days, the privilege of the*  
36 *person to operate a motor vehicle pursuant to Section 13201.5 of*  
37 *the Vehicle Code for any violation of subdivision (b) that was*  
38 *committed within 1,000 feet of a private residence and with the*  
39 *use of a vehicle. In lieu of the suspension, the court may order a*  
40 *person's privilege to operate a motor vehicle restricted, for not*

1 more than six months, to necessary travel to and from the person's  
2 place of employment or education. If driving a motor vehicle is  
3 necessary to perform the duties of the person's employment, the  
4 court may also allow the person to drive in that person's scope of  
5 employment.

6 (l) (1) A second or subsequent violation of subdivision (j) is  
7 punishable by imprisonment in a county jail not exceeding one  
8 year, or by a fine not exceeding two thousand dollars (\$2,000), or  
9 by both that fine and imprisonment.

10 (2) If the victim of a violation of subdivision (j) was a minor at  
11 the time of the offense, the violation is punishable by imprisonment  
12 in a county jail not exceeding one year, or by a fine not exceeding  
13 two thousand dollars (\$2,000), or by both that fine and  
14 imprisonment.

15 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~  
16 ~~and the person who was solicited was a minor at the time of the~~  
17 ~~offense, and if the defendant knew or should have known that the~~  
18 ~~person who was solicited was a minor at the time of the offense,~~  
19 ~~the violation is punishable by imprisonment in a county jail for~~  
20 ~~not less than two days and not more than one year, or by a fine not~~  
21 ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~  
22 ~~imprisonment.~~

23 ~~(2) The court may, in unusual cases, when the interests of justice~~  
24 ~~are best served, reduce or eliminate the mandatory two days of~~  
25 ~~imprisonment in a county jail required by this subdivision. If the~~  
26 ~~court reduces or eliminates the mandatory two days' imprisonment,~~  
27 ~~the court shall specify the reason on the record.~~

28 *SEC. 1.2. Section 647 of the Penal Code is amended to read:*

29 647. Except as provided in *paragraph (8) of subdivision (b)*  
30 *and subdivision (l), every a* person who commits any of the  
31 following acts is guilty of disorderly conduct, a misdemeanor:

32 (a) ~~Who~~ *An individual who* solicits anyone to engage in or who  
33 engages in lewd or dissolute conduct in any public place or in any  
34 place open to the public or exposed to public view.

35 (b) ~~Who solicits or who agrees to engage in or who engages in~~  
36 ~~any act of prostitution. A person agrees to engage in an act of~~  
37 ~~prostitution when, with specific intent to so engage, he or she~~  
38 ~~manifests an~~

39 (b) (1) *An individual who solicits, or who agrees to engage in,*  
40 *or who engages in, any act of prostitution with the intent to receive*



1 *compensation, money, or anything of value from the other person.*  
2 *An individual agrees to engage in an act of prostitution when, with*  
3 *specific intent to so engage, he or she manifests an acceptance of*  
4 *an offer or solicitation by another person to so engage, regardless*  
5 *of whether the offer or solicitation was made by a person who also*  
6 *possessed the specific intent to engage in an act of prostitution.*

7 *(2) An individual who solicits, or who agrees to engage in, or*  
8 *who engages in, any act of prostitution with another person who*  
9 *is 18 years of age or older in exchange for the individual providing*  
10 *compensation, money, or anything of value to the other person.*  
11 *An individual agrees to engage in an act of prostitution when, with*  
12 *specific intent to so engage, he or she manifests an acceptance of*  
13 *an offer or solicitation by another person who is 18 years of age*  
14 *or older to so engage, regardless of whether the offer or solicitation*  
15 *was made by a person who also possessed the specific intent to*  
16 *engage in an act of prostitution.*

17 *(3) An individual who solicits, or who agrees to engage in, or*  
18 *who engages in, any act of prostitution with another person who*  
19 *is a minor in exchange for the individual providing compensation,*  
20 *money, or anything of value to the minor. An individual agrees to*  
21 *engage in an act of prostitution when, with specific intent to so*  
22 *engage, he or she manifests an acceptance of an offer or*  
23 *solicitation by someone who is a minor to so engage, regardless*  
24 *of whether the offer or solicitation was made by a minor who also*  
25 *possessed the specific intent to engage in an act of prostitution.*

26 *(4) A manifestation of acceptance of an offer or solicitation to*  
27 *so engage, regardless of whether the offer or solicitation was made*  
28 *by a person who also possessed the specific intent to engage in*  
29 *prostitution. No agreement to engage in an act of prostitution shall*  
30 *not constitute a violation of this subdivision unless some act, in*  
31 *addition to the agreement, manifestation of acceptance, is done*  
32 *within this state in furtherance of the commission of an the act of*  
33 *prostitution by the person agreeing manifesting an acceptance of*  
34 *an offer or solicitation to engage in that act. As used in this*  
35 *subdivision, "prostitution" includes any lewd act between persons*  
36 *for money or other consideration.*

37 *(5) Except as provided in paragraph (6) and subdivision (k), a*  
38 *violation of paragraph (2) or (3) is punishable by imprisonment*  
39 *in a county jail for not less than 72 hours and not more than six*  
40 *months and by a fine of not less than two hundred fifty dollars*

1 (\$250) but not exceeding one thousand dollars (\$1,000). Upon a  
2 violation of paragraph (2) or (3), a person is not eligible for  
3 release upon completion of sentence, on probation, on parole, on  
4 work furlough or work release, or on any other basis until he or  
5 she has served a period of not less than 24 continuous hours in a  
6 county jail. In all cases in which probation is granted, the court  
7 shall require as a condition of probation that the person be  
8 confined in a county jail for at least 24 hours. The court shall  
9 order that a person punished under this paragraph, who is to be  
10 punished by imprisonment in the county jail, be imprisoned on  
11 days other than days of regular employment of the person, as  
12 determined by the court. If the court determines that 24 hours of  
13 continuous imprisonment would interfere with the person's work  
14 schedule, the court shall allow the person to serve the  
15 imprisonment whenever the person is normally scheduled for time  
16 off from work. The court may make this determination based upon  
17 a representation from the defendant's attorney or upon an affidavit  
18 or testimony from the defendant.

19 (6) If a defendant violates paragraph (3) and knew or should  
20 have known that the person who was solicited was a minor at the  
21 time of the offense, or if a defendant violates paragraph (2) and  
22 the person who was solicited was a person posing as a minor and  
23 the defendant had specific intent to solicit a minor, the violation  
24 is punishable by imprisonment in a county jail for not less than  
25 72 hours and not more than one year and by a fine of not less than  
26 one thousand dollars (\$1,000) but not exceeding ten thousand  
27 dollars (\$10,000). Upon a violation of this paragraph, a person  
28 is not eligible for release upon completion of sentence, on  
29 probation, on parole, on work furlough or work release, or on any  
30 other basis until he or she has served a period of not less than 48  
31 continuous hours in a county jail. In all cases in which probation  
32 is granted, the court shall require as a condition of probation that  
33 the person be confined in a county jail for at least 48 hours. The  
34 court shall order that a person punished under this paragraph,  
35 who is to be punished by imprisonment in the county jail, be  
36 imprisoned on days other than days of regular employment of the  
37 person, as determined by the court. If the court determines that  
38 48 hours of continuous imprisonment would interfere with the  
39 person's work schedule, the court shall allow the person to serve  
40 the imprisonment whenever the person is normally scheduled for

1 *time off from work. The court may make this determination based*  
2 *upon a representation from the defendant's attorney or upon an*  
3 *affidavit or testimony from the defendant.*

4 *(7) This subdivision does not prohibit prosecution under any*  
5 *other law.*

6 *(8) Notwithstanding paragraphs (1) to (3), inclusive, this*  
7 *subdivision does not apply to a child under 18 years of age who*  
8 *is alleged to have engaged in conduct to receive money or other*  
9 *consideration that would, if committed by an adult, violate this*  
10 *subdivision. A commercially exploited child under this paragraph*  
11 *may be adjudged a dependent child of the court pursuant to*  
12 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*  
13 *Institutions Code and may be taken into temporary custody*  
14 *pursuant to subdivision (a) of Section 305 of the Welfare and*  
15 *Institutions Code, if the conditions allowing temporary custody*  
16 *without warrant are met.*

17 *(c) Who accosts other persons in any public place or in any*  
18 *place open to the public for the purpose of begging or soliciting*  
19 *alms.*

20 *(d) Who loiters in or about any toilet open to the public for the*  
21 *purpose of engaging in or soliciting any lewd or lascivious or any*  
22 *unlawful act.*

23 *(e) Who lodges in any building, structure, vehicle, or place,*  
24 *whether public or private, without the permission of the owner or*  
25 *person entitled to the possession or in control of it.*

26 *(f) Who is found in any public place under the influence of*  
27 *intoxicating liquor, any drug, controlled substance, toluene, or any*  
28 *combination of any intoxicating liquor, drug, controlled substance,*  
29 *or toluene, in a condition that he or she is unable to exercise care*  
30 *for his or her own safety or the safety of others, or by reason of*  
31 *his or her being under the influence of intoxicating liquor, any*  
32 *drug, controlled substance, toluene, or any combination of any*  
33 *intoxicating liquor, drug, or toluene, interferes with or obstructs*  
34 *or prevents the free use of any street, sidewalk, or other public*  
35 *way.*

36 *(g) When a person has violated subdivision (f), a peace officer,*  
37 *if he or she is reasonably able to do so, shall place the person, or*  
38 *cause him or her to be placed, in civil protective custody. The*  
39 *person shall be taken to a facility, designated pursuant to Section*  
40 *5170 of the Welfare and Institutions Code, for the 72-hour*

1 treatment and evaluation of inebriates. A peace officer may place  
2 a person in civil protective custody with that kind and degree of  
3 force which would be lawful were he or she effecting an arrest for  
4 a misdemeanor without a warrant. A person who has been placed  
5 in civil protective custody shall not thereafter be subject to any  
6 criminal prosecution or juvenile court proceeding based on the  
7 facts giving rise to this placement. This subdivision shall not apply  
8 to the following persons:

9 (1) Any person who is under the influence of any drug, or under  
10 the combined influence of intoxicating liquor and any drug.

11 (2) Any person who a peace officer has probable cause to believe  
12 has committed any felony, or who has committed any misdemeanor  
13 in addition to subdivision (f).

14 (3) Any person who a peace officer in good faith believes will  
15 attempt escape or will be unreasonably difficult for medical  
16 personnel to control.

17 (h) Who loiters, prowls, or wanders upon the private property  
18 of another, at any time, without visible or lawful business with the  
19 owner or occupant. As used in this subdivision, “loiter” means to  
20 delay or linger without a lawful purpose for being on the property  
21 and for the purpose of committing a crime as opportunity may be  
22 discovered.

23 (i) Who, while loitering, prowling, or wandering upon the private  
24 property of another, at any time, peeks in the door or window of  
25 any inhabited building or structure, without visible or lawful  
26 business with the owner or occupant.

27 (j) (1) Any person who looks through a hole or opening, into,  
28 or otherwise views, by means of any instrumentality, including,  
29 but not limited to, a periscope, telescope, binoculars, camera,  
30 motion picture camera, camcorder, or mobile phone, the interior  
31 of a bedroom, bathroom, changing room, fitting room, dressing  
32 room, or tanning booth, or the interior of any other area in which  
33 the occupant has a reasonable expectation of privacy, with the  
34 intent to invade the privacy of a person or persons inside. This  
35 subdivision shall not apply to those areas of a private business  
36 used to count currency or other negotiable instruments.

37 (2) Any person who uses a concealed camcorder, motion picture  
38 camera, or photographic camera of any type, to secretly videotape,  
39 film, photograph, or record by electronic means, another,  
40 identifiable person under or through the clothing being worn by

1 that other person, for the purpose of viewing the body of, or the  
2 undergarments worn by, that other person, without the consent or  
3 knowledge of that other person, with the intent to arouse, appeal  
4 to, or gratify the lust, passions, or sexual desires of that person and  
5 invade the privacy of that other person, under circumstances in  
6 which the other person has a reasonable expectation of privacy.

7 (3) (A) Any person who uses a concealed camcorder, motion  
8 picture camera, or photographic camera of any type, to secretly  
9 videotape, film, photograph, or record by electronic means, another,  
10 identifiable person who may be in a state of full or partial undress,  
11 for the purpose of viewing the body of, or the undergarments worn  
12 by, that other person, without the consent or knowledge of that  
13 other person, in the interior of a bedroom, bathroom, changing  
14 room, fitting room, dressing room, or tanning booth, or the interior  
15 of any other area in which that other person has a reasonable  
16 expectation of privacy, with the intent to invade the privacy of that  
17 other person.

18 (B) Neither of the following is a defense to the crime specified  
19 in this paragraph:

20 (i) The defendant was a cohabitant, landlord, tenant, cotenant,  
21 employer, employee, or business partner or associate of the victim,  
22 or an agent of any of these.

23 (ii) The victim was not in a state of full or partial undress.

24 (4) (A) Any person who intentionally distributes the image of  
25 the intimate body part or parts of another identifiable person, or  
26 an image of the person depicted engaged in an act of sexual  
27 intercourse, sodomy, oral copulation, sexual penetration, or an  
28 image of masturbation by the person depicted or in which the  
29 person depicted participates, under circumstances in which the  
30 persons agree or understand that the image shall remain private,  
31 the person distributing the image knows or should know that  
32 distribution of the image will cause serious emotional distress, and  
33 the person depicted suffers that distress.

34 (B) A person intentionally distributes an image described in  
35 subparagraph (A) when he or she personally distributes the image,  
36 or arranges, specifically requests, or intentionally causes another  
37 person to distribute that image.

38 (C) As used in this paragraph, “intimate body part” means any  
39 portion of the genitals, the anus and in the case of a female, also

1 includes any portion of the breasts below the top of the areola, that  
2 is either uncovered or clearly visible through clothing.

3 (D) It shall not be a violation of this paragraph to distribute an  
4 image described in subparagraph (A) if any of the following  
5 applies:

6 (i) The distribution is made in the course of reporting an  
7 unlawful activity.

8 (ii) The distribution is made in compliance with a subpoena or  
9 other court order for use in a legal proceeding.

10 (iii) The distribution is made in the course of a lawful public  
11 proceeding.

12 (5) This subdivision shall not preclude punishment under any  
13 section of law providing for greater punishment.

14 (k) In any accusatory pleading charging a violation of  
15 subdivision (b), if the defendant has been once previously convicted  
16 of a violation of that subdivision, the previous conviction shall be  
17 charged in the accusatory pleading. If the previous conviction is  
18 found to be true by the jury, upon a jury trial, or by the court, upon  
19 a court trial, or is admitted by the defendant, the defendant shall  
20 be imprisoned in a county jail for a period of not less than 45 days  
21 and ~~shall is not be~~ eligible for release upon completion of sentence,  
22 on probation, on parole, on work furlough or work release, or on  
23 any other basis until he or she has served a period of not less than  
24 45 days in a county jail. In all cases in which probation is granted,  
25 the court shall require as a condition thereof that the person be  
26 confined in a county jail for at least 45 days. ~~In no event does the~~  
27 ~~court have the power to~~ *The court shall not* absolve a person who  
28 violates this subdivision from the obligation of spending at least  
29 45 days in confinement in a county jail.

30 In any accusatory pleading charging a violation of subdivision  
31 (b), if the defendant has been previously convicted two or more  
32 times of a violation of that subdivision, each of these previous  
33 convictions shall be charged in the accusatory pleading. If two or  
34 more of these previous convictions are found to be true by the jury,  
35 upon a jury trial, or by the court, upon a court trial, or are admitted  
36 by the defendant, the defendant shall be imprisoned in a county  
37 jail for a period of not less than 90 days and ~~shall is not be~~ eligible  
38 for release upon completion of sentence, on probation, on parole,  
39 on work furlough or work release, or on any other basis until he  
40 or she has served a period of not less than 90 days in a county jail.

1 In all cases in which probation is granted, the court shall require  
2 as a condition thereof that the person be confined in a county jail  
3 for at least 90 days. ~~In no event does the court~~ *The court shall not*  
4 have the power to absolve a person who violates this subdivision  
5 from the obligation of spending at least 90 days in confinement in  
6 a county jail.

7 In addition to any punishment prescribed by this section, a court  
8 may suspend, for not more than 30 days, the privilege of the person  
9 to operate a motor vehicle pursuant to Section 13201.5 of the  
10 Vehicle Code for any violation of subdivision (b) that was  
11 committed within 1,000 feet of a private residence and with the  
12 use of a vehicle. In lieu of the suspension, the court may order a  
13 person's privilege to operate a motor vehicle restricted, for not  
14 more than six months, to necessary travel to and from the person's  
15 place of employment or education. If driving a motor vehicle is  
16 necessary to perform the duties of the person's employment, the  
17 court may also allow the person to drive in that person's scope of  
18 employment.

19 (l) (1) A second or subsequent violation of subdivision (j) is  
20 punishable by imprisonment in a county jail not exceeding one  
21 year, or by a fine not exceeding two thousand dollars (\$2,000), or  
22 by both that fine and imprisonment.

23 (2) If the victim of a violation of subdivision (j) was a minor at  
24 the time of the offense, the violation is punishable by imprisonment  
25 in a county jail not exceeding one year, or by a fine not exceeding  
26 two thousand dollars (\$2,000), or by both that fine and  
27 imprisonment.

28 (m) (1) ~~If a crime is committed in violation of subdivision (b)~~  
29 ~~and the person who was solicited was a minor at the time of the~~  
30 ~~offense, and if the defendant knew or should have known that the~~  
31 ~~person who was solicited was a minor at the time of the offense,~~  
32 ~~the violation is punishable by imprisonment in a county jail for~~  
33 ~~not less than two days and not more than one year, or by a fine not~~  
34 ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~  
35 ~~imprisonment.~~

36 (2) ~~The court may, in unusual cases, when the interests of justice~~  
37 ~~are best served, reduce or eliminate the mandatory two days of~~  
38 ~~imprisonment in a county jail required by this subdivision. If the~~  
39 ~~court reduces or eliminates the mandatory two days' imprisonment,~~  
40 ~~the court shall specify the reason on the record.~~

1     *SEC. 1.3. Section 647 of the Penal Code is amended to read:*

2     647. Except as provided in *paragraph (8) of subdivision (b)*  
3     *and subdivision (l), every a person who commits any of the*  
4     *following acts is guilty of disorderly conduct, a misdemeanor:*

5     (a) ~~Who~~ *An individual who solicits anyone to engage in or who*  
6     *engages in lewd or dissolute conduct in any public place or in any*  
7     *place open to the public or exposed to public view.*

8     (b) ~~Who solicits or who agrees to engage in or who engages in~~  
9     ~~any act of prostitution. A person agrees to engage in an act of~~  
10    ~~prostitution when, with specific intent to so engage, he or she~~  
11    ~~manifests an~~

12    (b) (1) *An individual who solicits, or who agrees to engage in,*  
13    *or who engages in, any act of prostitution with the intent to receive*  
14    *compensation, money, or anything of value from the other person.*  
15    *An individual agrees to engage in an act of prostitution when, with*  
16    *specific intent to so engage, he or she manifests an acceptance of*  
17    *an offer or solicitation by another person to so engage, regardless*  
18    *of whether the offer or solicitation was made by a person who also*  
19    *possessed the specific intent to engage in an act of prostitution.*

20    (2) *An individual who solicits, or who agrees to engage in, or*  
21    *who engages in, any act of prostitution with another person who*  
22    *is 18 years of age or older in exchange for the individual providing*  
23    *compensation, money, or anything of value to the other person.*  
24    *An individual agrees to engage in an act of prostitution when, with*  
25    *specific intent to so engage, he or she manifests an acceptance of*  
26    *an offer or solicitation by another person who is 18 years of age*  
27    *or older to so engage, regardless of whether the offer or solicitation*  
28    *was made by a person who also possessed the specific intent to*  
29    *engage in an act of prostitution.*

30    (3) *An individual who solicits, or who agrees to engage in, or*  
31    *who engages in, any act of prostitution with another person who*  
32    *is a minor in exchange for the individual providing compensation,*  
33    *money, or anything of value to the minor. An individual agrees to*  
34    *engage in an act of prostitution when, with specific intent to so*  
35    *engage, he or she manifests an acceptance of an offer or*  
36    *solicitation by someone who is a minor to so engage, regardless*  
37    *of whether the offer or solicitation was made by a minor who also*  
38    *possessed the specific intent to engage in an act of prostitution.*

39    (4) *A manifestation of acceptance of an offer or solicitation to*  
40    ~~so engage, regardless of whether the offer or solicitation was made~~



1 ~~by a person who also possessed the specific intent to engage in~~  
2 ~~prostitution. No agreement to engage in an act of prostitution shall~~  
3 ~~does not~~ constitute a violation of this subdivision unless some act,  
4 in addition to the ~~agreement~~, *manifestation of acceptance*, is done  
5 within this state in furtherance of the commission of ~~an~~ the act of  
6 prostitution by the person ~~agreeing~~ *manifesting an acceptance of*  
7 *an offer or solicitation* to engage in that act. As used in this  
8 subdivision, “prostitution” includes any lewd act between persons  
9 for money or other consideration.

10 (5) *Except as provided in paragraph (6), a violation of*  
11 *paragraph (2) or (3) is punishable by imprisonment in a county*  
12 *jail for not less than 72 hours and not more than six months and*  
13 *by a fine of not less than two hundred fifty dollars (\$250) but not*  
14 *exceeding one thousand dollars (\$1,000). Upon a violation of*  
15 *paragraph (2) or (3), a person is not eligible for release upon*  
16 *completion of sentence, on probation, on parole, on work furlough*  
17 *or work release, or on any other basis until he or she has served*  
18 *a period of not less than 24 continuous hours in a county jail. In*  
19 *all cases in which probation is granted, the court shall require as*  
20 *a condition of probation that the person be confined in a county*  
21 *jail for at least 24 hours. The court shall order that a person*  
22 *punished under this paragraph, who is to be punished by*  
23 *imprisonment in the county jail, be imprisoned on days other than*  
24 *days of regular employment of the person, as determined by the*  
25 *court. If the court determines that 24 hours of continuous*  
26 *imprisonment would interfere with the person’s work schedule,*  
27 *the court shall allow the person to serve the imprisonment*  
28 *whenever the person is normally scheduled for time off from work.*  
29 *The court may make this determination based upon a*  
30 *representation from the defendant’s attorney or upon an affidavit*  
31 *or testimony from the defendant.*

32 (6) *If a defendant violates paragraph (3) and knew or should*  
33 *have known that the person who was solicited was a minor at the*  
34 *time of the offense, or if a defendant violates paragraph (2) and*  
35 *the person who was solicited was a person posing as a minor and*  
36 *the defendant had specific intent to solicit a minor, the violation*  
37 *is punishable by imprisonment in a county jail for not less than*  
38 *72 hours and not more than one year and by a fine of not less than*  
39 *one thousand dollars (\$1,000) but not exceeding ten thousand*  
40 *dollars (\$10,000). Upon a violation of this paragraph, a person*

1 *is not eligible for release upon completion of sentence, on*  
2 *probation, on parole, on work furlough or work release, or on any*  
3 *other basis until he or she has served a period of not less than 48*  
4 *continuous hours in a county jail. In all cases in which probation*  
5 *is granted, the court shall require as a condition of probation that*  
6 *the person be confined in a county jail for at least 48 hours. The*  
7 *court shall order that a person punished under this paragraph,*  
8 *who is to be punished by imprisonment in the county jail, be*  
9 *imprisoned on days other than days of regular employment of the*  
10 *person, as determined by the court. If the court determines that*  
11 *48 hours of continuous imprisonment would interfere with the*  
12 *person's work schedule, the court shall allow the person to serve*  
13 *the imprisonment whenever the person is normally scheduled for*  
14 *time off from work. The court may make this determination based*  
15 *upon a representation from the defendant's attorney or upon an*  
16 *affidavit or testimony from the defendant.*

17 (7) *This subdivision does not prohibit prosecution under any*  
18 *other law.*

19 (8) *Notwithstanding paragraphs (1) to (3), inclusive, this*  
20 *subdivision does not apply to a child under 18 years of age who*  
21 *is alleged to have engaged in conduct to receive money or other*  
22 *consideration that would, if committed by an adult, violate this*  
23 *subdivision. A commercially exploited child under this paragraph*  
24 *may be adjudged a dependent child of the court pursuant to*  
25 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*  
26 *Institutions Code and may be taken into temporary custody*  
27 *pursuant to subdivision (a) of Section 305 of the Welfare and*  
28 *Institutions Code, if the conditions allowing temporary custody*  
29 *without warrant are met.*

30 (c) *Who accosts other persons in any public place or in any*  
31 *place open to the public for the purpose of begging or soliciting*  
32 *alms.*

33 (d) *Who loiters in or about any toilet open to the public for the*  
34 *purpose of engaging in or soliciting any lewd or lascivious or any*  
35 *unlawful act.*

36 (e) *Who lodges in any building, structure, vehicle, or place,*  
37 *whether public or private, without the permission of the owner or*  
38 *person entitled to the possession or in control of it.*

39 (f) *Who is found in any public place under the influence of*  
40 *intoxicating liquor, any drug, controlled substance, toluene, or any*

1 combination of any intoxicating liquor, drug, controlled substance,  
2 or toluene, in a condition that he or she is unable to exercise care  
3 for his or her own safety or the safety of others, or by reason of  
4 his or her being under the influence of intoxicating liquor, any  
5 drug, controlled substance, toluene, or any combination of any  
6 intoxicating liquor, drug, or toluene, interferes with or obstructs  
7 or prevents the free use of any street, sidewalk, or other public  
8 way.

9 (g) ~~When~~ If a person has violated subdivision (f), a peace officer,  
10 if he or she is reasonably able to do so, shall place the person, or  
11 cause him or her to be placed, in civil protective custody. The  
12 person shall be taken to a facility, designated pursuant to Section  
13 5170 of the Welfare and Institutions Code, for the 72-hour  
14 treatment and evaluation of inebriates. A peace officer may place  
15 a person in civil protective custody with that kind and degree of  
16 force ~~which~~ that would be lawful were he or she effecting an arrest  
17 for a misdemeanor without a warrant. A person who has been  
18 placed in civil protective custody shall not thereafter be subject to  
19 any criminal prosecution or juvenile court proceeding based on  
20 the facts giving rise to this placement. This subdivision ~~shall~~ does  
21 not apply to the following persons:

22 (1) ~~Any~~ A person who is under the influence of any drug, or  
23 under the combined influence of intoxicating liquor and any drug.

24 (2) ~~Any~~ A person who a peace officer has probable cause to  
25 believe has committed any felony, or who has committed any  
26 misdemeanor in addition to subdivision (f).

27 (3) ~~Any~~ A person who a peace officer in good faith believes  
28 will attempt escape or will be unreasonably difficult for medical  
29 personnel to control.

30 (h) Who loiters, prowls, or wanders upon the private property  
31 of another, at any time, without visible or lawful business with the  
32 owner or occupant. As used in this subdivision, “loiter” means to  
33 delay or linger without a lawful purpose for being on the property  
34 and for the purpose of committing a crime as opportunity may be  
35 discovered.

36 (i) Who, while loitering, prowling, or wandering upon the private  
37 property of another, at any time, peeks in the door or window of  
38 any inhabited building or structure, without visible or lawful  
39 business with the owner or occupant.

(j) (1) ~~Any~~A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision ~~shall~~ *does* not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) ~~Any~~A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) ~~Any~~A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) ~~Any~~A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual

1 intercourse, sodomy, oral copulation, sexual penetration, or an  
2 image of masturbation by the person depicted or in which the  
3 person depicted participates, under circumstances in which the  
4 persons agree or understand that the image shall remain private,  
5 the person distributing the image knows or should know that  
6 distribution of the image will cause serious emotional distress, and  
7 the person depicted suffers that distress.

8 (B) A person intentionally distributes an image described in  
9 subparagraph (A) when he or she personally distributes the image,  
10 or arranges, specifically requests, or intentionally causes another  
11 person to distribute that image.

12 (C) As used in this paragraph, “intimate body part” means any  
13 portion of the genitals, the anus and in the case of a female, also  
14 includes any portion of the breasts below the top of the areola, that  
15 is either uncovered or clearly visible through clothing.

16 (D) It shall not be a violation of this paragraph to distribute an  
17 image described in subparagraph (A) if any of the following  
18 applies:

19 (i) The distribution is made in the course of reporting an  
20 unlawful activity.

21 (ii) The distribution is made in compliance with a subpoena or  
22 other court order for use in a legal proceeding.

23 (iii) The distribution is made in the course of a lawful public  
24 proceeding.

25 (5) This subdivision ~~shall~~ *does* not preclude punishment under  
26 any section of law providing for greater punishment.

27 ~~(k) In any accusatory pleading charging a violation of~~  
28 ~~subdivision (b), if the defendant has been once previously convicted~~  
29 ~~of a violation of that subdivision, the previous conviction shall be~~  
30 ~~charged in the accusatory pleading. If the previous conviction is~~  
31 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~  
32 ~~a court trial, or is admitted by the defendant, the defendant shall~~  
33 ~~be imprisoned in a county jail for a period of not less than 45 days~~  
34 ~~and shall not be eligible for release upon completion of sentence,~~  
35 ~~on probation, on parole, on work furlough or work release, or on~~  
36 ~~any other basis until he or she has served a period of not less than~~  
37 ~~45 days in a county jail. In all cases in which probation is granted,~~  
38 ~~the court shall require as a condition thereof that the person be~~  
39 ~~confined in a county jail for at least 45 days. In no event does the~~  
40 ~~court have the power to absolve a person who violates this~~

1 ~~subdivision from the obligation of spending at least 45 days in~~  
2 ~~confinement in a county jail.~~

3 ~~In any accusatory pleading charging a violation of subdivision~~  
4 ~~(b), if the defendant has been previously convicted two or more~~  
5 ~~times of a violation of that subdivision, each of these previous~~  
6 ~~convictions shall be charged in the accusatory pleading. If two or~~  
7 ~~more of these previous convictions are found to be true by the jury,~~  
8 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~  
9 ~~by the defendant, the defendant shall be imprisoned in a county~~  
10 ~~jail for a period of not less than 90 days and shall not be eligible~~  
11 ~~for release upon completion of sentence, on probation, on parole,~~  
12 ~~on work furlough or work release, or on any other basis until he~~  
13 ~~or she has served a period of not less than 90 days in a county jail.~~  
14 ~~In all cases in which probation is granted, the court shall require~~  
15 ~~as a condition thereof that the person be confined in a county jail~~  
16 ~~for at least 90 days. In no event does the court have the power to~~  
17 ~~absolve a person who violates this subdivision from the obligation~~  
18 ~~of spending at least 90 days in confinement in a county jail.~~

19 ~~In~~

20 *(k)* ~~In addition to any punishment prescribed by this section, a~~  
21 ~~court may suspend, for not more than 30 days, the privilege of the~~  
22 ~~person to operate a motor vehicle pursuant to Section 13201.5 of~~  
23 ~~the Vehicle Code for any violation of subdivision (b) that was~~  
24 ~~committed within 1,000 feet of a private residence and with the~~  
25 ~~use of a vehicle. In lieu of the suspension, the court may order a~~  
26 ~~person's privilege to operate a motor vehicle restricted, for not~~  
27 ~~more than six months, to necessary travel to and from the person's~~  
28 ~~place of employment or education. If driving a motor vehicle is~~  
29 ~~necessary to perform the duties of the person's employment, the~~  
30 ~~court may also allow the person to drive in that person's scope of~~  
31 ~~employment.~~

32 *(l)* ~~(1) A second or subsequent violation of subdivision (j) is~~  
33 ~~punishable by imprisonment in a county jail not exceeding one~~  
34 ~~year, or by a fine not exceeding two thousand dollars (\$2,000), or~~  
35 ~~by both that fine and imprisonment.~~

36 ~~(2) If the victim of a violation of subdivision (j) was a minor at~~  
37 ~~the time of the offense, the violation is punishable by imprisonment~~  
38 ~~in a county jail not exceeding one year, or by a fine not exceeding~~  
39 ~~two thousand dollars (\$2,000), or by both that fine and~~  
40 ~~imprisonment.~~

1     ~~(m) (1) If a crime is committed in violation of subdivision (b)~~  
2     ~~and the person who was solicited was a minor at the time of the~~  
3     ~~offense, and if the defendant knew or should have known that the~~  
4     ~~person who was solicited was a minor at the time of the offense,~~  
5     ~~the violation is punishable by imprisonment in a county jail for~~  
6     ~~not less than two days and not more than one year, or by a fine not~~  
7     ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~  
8     ~~imprisonment.~~

9     ~~(2) The court may, in unusual cases, when the interests of justice~~  
10    ~~are best served, reduce or eliminate the mandatory two days of~~  
11    ~~imprisonment in a county jail required by this subdivision. If the~~  
12    ~~court reduces or eliminates the mandatory two days' imprisonment,~~  
13    ~~the court shall specify the reason on the record.~~

14    *SEC. 2. (a) Section 1.1 of this bill incorporates amendments*  
15    *to Section 647 of the Penal Code proposed by both this bill and*  
16    *Senate Bill 1129. It shall only become operative if (1) both bills*  
17    *are enacted and become effective on or before January 1, 2017,*  
18    *(2) each bill amends Section 647 of the Penal Code, and (3) Senate*  
19    *Bill 1322 is not enacted or as enacted does not amend that section,*  
20    *and (4) this bill is enacted after Senate Bill 1129, in which case*  
21    *Sections 1, 1.2, and 1.3 of this bill shall not become operative.*

22    *(b) Section 1.2 of this bill incorporates amendments to Section*  
23    *647 of the Penal Code proposed by both this bill and Senate Bill*  
24    *1322. It shall only become operative if (1) both bills are enacted*  
25    *and become effective on or before January 1, 2017, (2) each bill*  
26    *amends Section 647 of the Penal Code, (3) Senate Bill 1129 is not*  
27    *enacted or as enacted does not amend that section, and (4) this*  
28    *bill is enacted after Senate Bill 1322, in which case Sections 1,*  
29    *1.1, and 1.3 of this bill shall not become operative.*

30    *(c) Section 1.3 of this bill incorporates amendments to Section*  
31    *647 of the Penal Code proposed by this bill, Senate Bill 1129, and*  
32    *Senate Bill 1322. It shall only become operative if (1) all three*  
33    *bills are enacted and become effective on or before January 1,*  
34    *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*  
35    *this bill is enacted after Senate Bill 1129 and Senate Bill 1322, in*  
36    *which case Sections 1, 1.1, and 1.2 of this bill shall not become*  
37    *operative.*

38    ~~SEC. 2.~~

39    *SEC. 3. No reimbursement is required by this act pursuant to*  
40    *Section 6 of Article XIII B of the California Constitution because*

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

O